



**CABLE & WIRELESS  
COMMUNICATIONS INC**

Cable & Wireless  
Communications Inc  
1919 Gallows Road  
Vienna  
Virginia 22182

Telephone: (703) 790-5300

Direct Dial Line:  
(703) 734-4439

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

January 5, 1993

Donna Searcy  
Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20036

Re: Rules and Regulations Implementing the Telephone Consumer  
Protection Act of 1991, CC Docket 92-90

Dear Ms. Searcy:

Cable & Wireless Communications, Inc., ("CWC") yesterday filed its comments respecting petitions for reconsideration of Xpedite Systems, Inc. and the Fair Fax Coalition in the above-referenced proceeding. Inadvertently, the attachments associated with CWC's comments were omitted from the filing. They are attached hereto.

Sincerely yours,

Charles A. Tievsky  
Regulatory Attorney

cc: Interested Parties

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DISTRICT OF OREGON  
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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

## UNITED STATES DISTRICT COURT

## DISTRICT OF OREGON

KATHRYN MOSER and NATIONAL  
ASSOCIATION OF TELECOMPUTER  
OPERATORS,

Plaintiffs,

v.

FEDERAL COMMUNICATIONS COMMIS-  
SION, a federal agency, and  
ALFRED C. SIKES, in his capa-  
city as Chairman of the Fed-  
eral Communications Commis-  
sion,

Defendants.

Civil No. 92-1408-AS

ORDER OF PRELIMINARY  
INJUNCTION

The Court granted plaintiffs' motion for a preliminary injunction in an Order filed December 18, 1992, based on the Court's findings that:

1. Plaintiffs have raised serious questions about the constitutionality of 47 U.S.C. § 227(b)(1)(B).

2. The balance of hardships tips strongly in plaintiffs' favor, because of the infringement of first amendment rights

1 and economic impact on plaintiffs created by 47 U.S.C.  
2 § 227(b)(1)(B).

3 Now, therefore, it is ORDERED as follows:

4 1. Defendants are enjoined and restrained from enforcing  
5 47 U.S.C. § 227(b)(1)(B) during the pendency of this action.  
6 This injunction is not limited geographically, but applies to  
7 defendants wherever their jurisdiction extends.

8 2. Because this preliminary injunction carries no risk  
9 of monetary loss to defendants, plaintiffs are not required to  
10 post security. U.S. v. State of Oregon, 675 F Supp 1249, 1253  
11 (D. Or. 1987).

12 Dated: December 22, 1992.

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15 James A. Redden  
16 United States District Judge  
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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGONKATHRYN MOSER and NATIONAL  
ASSOCIATION OF TELECOMPUTER  
OPERATORS,

Plaintiffs,

v.

FEDERAL COMMUNICATIONS  
COMMISSION, a federal agency,  
and ALFRED C. SIKES, in his  
capacity as Chairman of the Federal  
Communications Commission,  
Defendants.

Civil No. 92-1408-AS

ORDER

REDDEN, Judge:

Plaintiffs move for a preliminary injunction enjoining defendants from enforcing 47 U.S.C. § 227 (b)(1)(B), the federal statute prohibiting persons from initiating any telephone call to any residential telephone line using an artificial or prerecorded voice to deliver a message without the prior consent of the called party.


1 - ORDER

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The Ninth Circuit has articulated standards for granting preliminary injunctions: the moving party may meet its burden by showing either (1) probable success on the merits and the likelihood of irreparable injury, or (2) that serious questions are raised and the balance of hardships tips sharply in the moving party's favor. Associated General Contractors of California, Inc. v. Coalition for Economic Equity, 950 F.2d 1401 (9th Cir. 1991), cert. denied, 112 S.Ct. 1670 (1992).

This court conducted a hearing on 17 December 1992 on this motion, and testimony was presented. The court concludes that serious questions have been raised, and that the balance of hardships tips sharply in favor of plaintiffs. The preliminary injunction (doc. #5) is GRANTED. An Opinion will follow shortly. IT IS SO ORDERED.

Dated this 18 day of December, 1992.

  
James A. Redden  
United States District Judge